

EXHIBIT NO. 1

15
6-12-04

Docket Item #29
SPECIAL USE PERMIT #2004-0034

Planning Commission Meeting
June 1, 2004

ISSUE: Consideration of a request for a special use permit to change the ownership of an automobile service station.

APPLICANT: R & N Corporation trading as Duke Street Mobil
by Duncan Blair, attorney

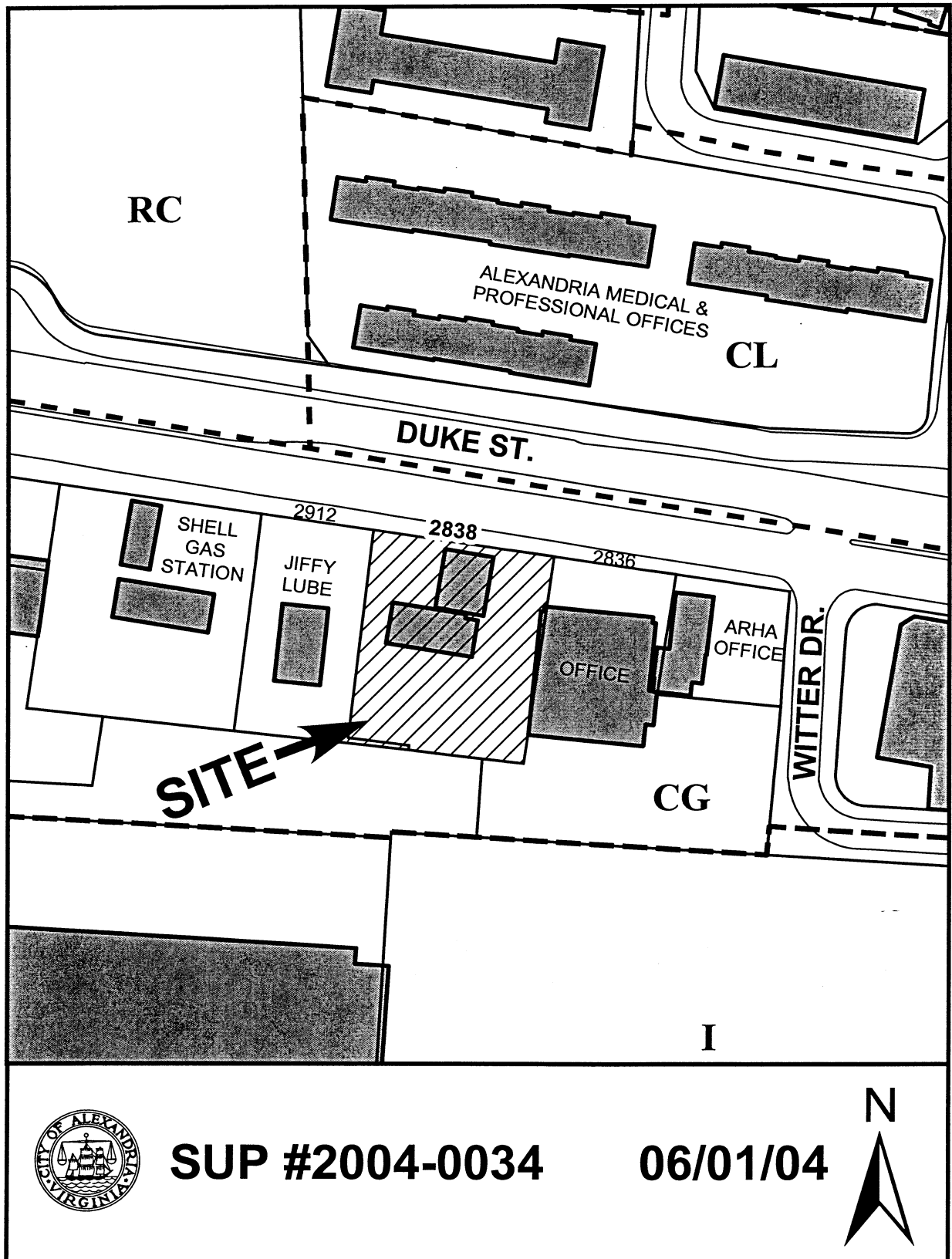
LOCATION: 2838 Duke Street

ZONE: CG/Commercial General

PLANNING COMMISSION ACTION, JUNE 1, 2004: On a motion by Ms. Fossum, seconded by Mr. Robinson, the Planning Commission voted to recommend approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendations. The motion carried on a vote of 7 to 0.

Reason: The Planning Commission agreed with the staff analysis.

STAFF RECOMMENDATION: Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the recommended conditions found in Section III of this report.



I. DISCUSSION

REQUEST

The applicant, R&N Corporation t/a Duke Street Mobil, is before the Planning Commission for a change of ownership of an automobile service station.

SITE DESCRIPTION

The subject property is one lot of record with an area of 27,093 square feet, approximately 150 feet of frontage along Duke Street, and a depth of 180 feet. A one story gas station with two pump islands and three service bays occupy the lot. The adjacent land uses include commercial businesses along the Duke Street corridor.

REVIEW DISCUSSION

An automobile service station has been operating on site since 1968 (SUP #737). Essam Danfora, the prior owner, operated the business since the late 1980s. That owner has had a poor history of compliance with the special use permit. The violations included not parking vehicles in an orderly manner, allowing trash and auto parts to accumulate outside, not maintaining or installing required landscaping, repairing vehicles outside, and conducting general repair when only light repair is permitted.

On March 11, 2004, the applicant and new owner submitted an application for a change of ownership of the station. Because of the history of violations on the property, staff docketed the application for review by City Council.

On April 30, 2004, staff inspected the subject premises to determine if the business was in compliance with the conditions of its special use permit. Staff found that the applicant was in violation of Conditions #5 (requiring that repair work be limited to light auto repair) and Condition #29 (requiring employee training on all SUP conditions), and issued a ticket for the violations. On May 19, 2004, staff reinspected the premises and found that the applicant had corrected the violations.

PARKING

Pursuant to Section 8-200(A)(12) of the Zoning Ordinance, an automobile service station with eight gasoline pumps requires eight parking spaces. There is room to park at least 15 or 16 cars on the subject premises.

ZONING

The subject property is zoned CG/Commercial General. Section 4-404(C) of the Zoning Ordinance permits automobile service stations only with a special use permit in the CG zone.

MASTER PLAN

The proposed use is consistent with the Taylor Run/Duke Street Small Area Plan chapter of the Master Plan which designates the property Commercial General.

II. STAFF ANALYSIS

Staff is concerned with the history of violations at the subject site, including by the new owner. Staff has discussed with the applicant the importance of compliance and has been assured that there will be no future violations. Staff is willing to give the new owner an opportunity to show that he will comply with the conditions under which the City allows the business to operate. Staff recommends that the applicant be allowed to operate the service station, with another review to take place in one year to ensure that additional violations do not occur. In the meantime, staff will continue to inspect the station and to issue tickets as appropriate for violations.

With this condition, staff recommends approval of the special use permit.

III. RECOMMENDED CONDITIONS

Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the following conditions:

1. Condition deleted. (PC)
2. Condition deleted. (PC)
3. No abandoned, stripped, or junked vehicles shall be kept on the premises. (Planning and Regional Affairs) (SUP #737)
4. The special use permit shall be granted to the applicant only or to any business or entity in which the applicant has a controlling interest. (P&Z) (SUP 95-0118)
5. **CONDITION AMENDED BY STAFF:** Repair work done on the premises shall be limited to light automobile repair, which is defined as "Minor service work to automobiles or light trucks including tune up, lubrication, alignment, fuel system, brakes, mufflers, and replacement of small items but not to include general auto repair services." (P&Z) ~~(SUP 95-0118)~~
6. No repair work shall be done outside. (P&Z) (SUP 95-0118)

7. The applicant shall provide a parking plan for the lot to the satisfaction of the Director of Planning and Zoning and shall stripe the parking spaces according to the approved plan prior to the issuance of a building permit for the canopy. (P&Z) (SUP 95-0118)
8. A minimum of a 22 foot wide drive aisle shall be provided around the building, for access to the service bays. (P&Z) (SUP 95-0118)
9. Vehicles shall be parked in a neat and orderly manner, generally in the designated striped parking spaces. (P&Z) (SUP 95-0118)
10. No vehicles shall be displayed, parked, or stored on a public right-of-way. (P&Z) (SUP 95-0118)
11. No vehicle parts, tires, or other materials shall be permitted to accumulate outside except in a dumpster or other suitable trash receptacle or enclosure. (P&Z) (SUP 95-0118)
12. The hours of operation shall be limited to between 6:00 A.M. and 10:00 P.M., daily (P&Z) (SUP 95-0118)
13. All waste products including, but not limited to organic compounds (solvents), motor oil, compressor lubricant and antifreeze shall be disposed of in accordance with all local, state and federal ordinances or regulations and not be discharged to the sanitary or storm sewers, or be discharged onto the ground. (T&ES) (SUP 2001-0114)
14. Condition deleted. (PC) (SUP#2003-0024)
15. Condition deleted. (PC) (SUP#2003-0024)
16. Condition deleted. (PC) (SUP#2003-0024)
17. Condition deleted. (PC)
18. **CONDITION AMENDED BY STAFF:** The applicant shall ~~install~~ maintain ~~two to four~~ the two street trees and shrubbery along the property line fronting Duke Street to the satisfaction of the Director of Planning and Zoning ~~by May 1, 2002.~~ (P&Z) (SUP 2001-0114)
19. The applicant shall maintain plants in good condition. (P&Z)(SUP 95-0118)

20. All loudspeakers shall be prohibited from the exterior of the building. No amplified sound shall be heard at the property line. (P&Z) (T&ES) (SUP#2003-0024)
21. Condition deleted. (CC) (SUP 97-0178)
22. **CONDITION AMENDED BY STAFF:** The Director of Planning and Zoning shall review the special use permit one year from approval and shall docket the matter for consideration by the Planning Commission and City Council if (a) there have been documented violations of the permit conditions which were not corrected immediately, constitute repeat violations or which create a direct and immediate adverse zoning impact on the surrounding community; (b) the director has received a request from any person to docket the permit for review as a result of a complaint that rises to the level of a violation, or (c) the director has determined that there are problems with the operation of the use and that new or revised conditions are needed. (P&Z)
23. **CONDITION AMENDED BY STAFF:** The applicant shall maintain the planting bed on the western side of the property ~~with its current plantings and in its current in~~ a neat and orderly condition in perpetuity. (PC) ~~(SUP 2001-0114)~~ (P&Z)
24. No banners, streamers, flags, or similar advertising devices shall be displayed on the premises, but signs advertising the general business conducted on the premises may be displayed in accordance with Article IX, Section 9-100 of the zoning ordinance of the City of Alexandria, Virginia. (P&Z) (SUP 2001-0114)
25. Loading and unloading of vehicles, if any, shall take place on-site and during hours of operation. (P&Z) (SUP 2001-0114)
26. The applicant shall comply with the City of Alexandria Best Management Practices Manual for Automotive Related Industries. A copy can be obtained by contacting the Division of Environmental Quality on 703/519-3400, extension 166. (T&ES) (SUP 2001-0114)
27. No material shall be disposed of by venting into the atmosphere. (T&ES) (SUP 2001-0114)
28. The applicant shall comply with the City of Alexandria's Noise Control Code, Title 11, Chapter 5, which sets the maximum permissible noise level as measured at the property line. (T&ES) (SUP 2001-0114)

29. The applicant shall conduct employee training sessions on an ongoing basis, including as part of any employee orientation process, to discuss all special use permit provisions and requirements. (P&Z) (SUP#2003-0024)
30. Convenience retail items sold shall be limited to cigarettes, sodas, prepackaged snack foods, chips, cookies, gum, magazines and similar items. (P&Z) (SUP#2003-0024)
31. **CONDITION ADDED BY STAFF:** The applicant shall control odors, smoke and any other air pollution from operations at the site and prevent them from leaving the property or becoming a nuisance to neighboring properties, as determined by the Department of Transportation and Environmental Services. (T&ES)
32. **CONDITION ADDED BY STAFF:** Car wash discharges resulting from a commercial operations shall not be indiscriminately discharged into a storm sewer system. For any on-site car washing, the applicant shall comply with one of the following four alternatives available to the applicant:
 - A) Car washes be done at an off site commercial car wash facility.
 - B) Wash water may be discharged to sanitary sewers after seeking appropriate approval from Alexandria Sanitation Authority.
 - C) Applicant may choose to seek coverage under a general VPDES (Virginia Pollution Discharge Elimination System) permit issued by Virginia Department of Environmental Quality to discharge wash water from car washes into surface waters/storm sewer and comply with the conditions specified therein.
 - D) Commercial car wash installations shall be equipped with water recycling system approved by the building official. (T&ES)

STAFF: Eileen Fogarty, Director, Department of Planning and Zoning;
Barbara Ross, Deputy Director;
Valerie Peterson, Urban Planner.

Staff Note: In accordance with section 11-506(c) of the zoning ordinance, construction or operation shall be commenced and diligently and substantially pursued within 18 months of the date of granting of a special use permit by City Council or the special use permit shall become void.

IV. CITY DEPARTMENT COMMENTS

Legend: C - code requirement R - recommendation S - suggestion F - finding

Transportation & Environmental Services:

- R-1 All waste products including but not limited to organic compounds (solvents), motor oil, compressor lubricant and antifreeze shall be disposed of in accordance with all local, state and federal ordinances or regulations and not be discharged to the sanitary or storm sewers or be discharged onto the ground.
- R-2 The applicant shall comply with the City of Alexandria Best Management practices manual for automotive related industries. A copy can be obtained by contacting the Division of Environmental Quality at 703-519-3400 ext. 166.
- R-3 The applicant shall control odors, smoke and any other air pollution from operations at the site and prevent them from leaving the property or becoming a nuisance to neighboring properties, as determined by the Department of Transportation and Environmental Services.
- R-4 No repair work shall be done outside.
- R-5 All loudspeakers shall be prohibited from the exterior of the building and no amplified sound shall be audible at the property line.
- R-6 Car wash discharges resulting from a commercial operations shall not be indiscriminately discharged into a storm sewer system. For any on-site car washing, the applicant shall comply with one of the following four alternatives available to the applicant:
 - A) Car washes be done at an off site commercial car wash facility.
 - B) Wash water may be discharged to sanitary sewers after seeking appropriate approval from Alexandria Sanitation Authority.
 - C) Applicant may choose to seek coverage under a general VPDES (Virginia Pollution Discharge Elimination System) permit issued by Virginia Department of Environmental Quality to discharge wash water from car washes into surface waters/storm sewer and comply with the conditions specified there in.
 - D) Commercial car wash installations shall be equipped with water recycling system approved by the building official. (T&ES)

- C-1 The applicant shall comply with the City of Alexandria's Noise Control Code, Title 11, Chapter 5, which sets the maximum permissible noise level as measured at the property line.

Code Enforcement:

- F-1 The following complaints were investigated:
CMP2003-03924 (10/11/03) - Failure to pay permit fees - Abated 10/19/03
CMP2003-03513 (9/9/03) - Failure to Pay Permit Fees - Abated 9/9/03
CMP2003-00989 (4/1/03) - Numerous Fire & Building Code Violations - Abated 9/2/03.
- C-1 A fire prevention code permit is required for the proposed operation due to change in ownership. An egress plan showing fixture location, aisles and exit doors shall be submitted for review with the permit application. An inventory and MSDS sheets for hazardous materials are required.

Health Department:

- F-1 No comments.

Police Department:

- R-1 The applicant is to contact the Crime Prevention Unit of the Alexandria Police Department at 703-838-4520 regarding a security survey for the business.
- R-2 The applicant is to contact the Crime Prevention Unit of the Alexandria Police Department at 703-838-4520 regarding a robbery awareness program for all employees.
- F-1 The applicant is not requesting an ABC permit and the Alexandria Police Department concurs with this.

APPLICATION for SPECIAL USE PERMIT # 2004-0034

[X] Change of Ownership or [] Minor Amendment

PROPERTY LOCATION: **2838 Duke Street, Alexandria, Virginia**

TAX MAP REFERENCE: **62.03 04 02**

ZONE: **CG/Commercial General**

APPLICANT Name: **R & N Corporation, a Virginia corporation trading as Duke Street Mobil**

Address: **2838 Duke Street, Alexandria, Virginia**

PROPERTY OWNER Name: **R & N Corporation, a Virginia corporation trading as Duke Street Mobil**

Address: **2838 Duke Street Alexandria, Virginia 22314**

SITE USE: **Automobile Service Station**

X THE UNDERSIGNED hereby applies for a Special Use Permit for **Change in Ownership**, in accordance with the provisions of Article XI, Division A, Section 11-503 (5)(f) of the 1992 Zoning Ordinance of City of Alexandria, Virginia. THE UNDERSIGNED, having read and received a copy of the special use permit, hereby agrees to comply with all conditions of the current special use permit, including all other applicable City codes and ordinances. **Not eligible for admin. approval due to violations*

[] THE UNDERSIGNED hereby applies for a Special Use Permit for **Minor Amendment**, in accordance with the provisions of Article XI, Division A, Section 11-509 and 11-511 of the 1992 Zoning Ordinance of City of Alexandria, Virginia.

THE UNDERSIGNED, having obtained permission from the property owner, hereby requests this special use permit. The undersigned also attests that all of the information herein required to be furnished by the applicant are true, correct and accurate to the best of their knowledge and belief.

Land, Clark, Carroll, Mendelson & Blair, PC
Duncan Wardman Blair, Esquire



Print Name of Applicant or Agent

Signature

PO Box 19888

Mailing/Street Address

(703) 836-1000

Telephone #

(703) 549-3335

Fax #

dblair@landclark.com

Email

Alexandria, Virginia

City and State

22320

Zip Code

March 11, 2004

Date

===== **DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY** =====

Application Received: _____

Date & Fee Paid: _____ \$ _____

Legal Advertisement: _____

ADMINISTRATIVE ACTION: _____

Date

Director, Planning & Zoning

The following information must be furnished to the Department of Planning and Zoning to determine if the current use conducted on the premises complies with the special use permit provisions and all other applicable codes and ordinances.

1. Please describe prior special use permit approval for the subject use.

Most recent Special Use Permit **SUP 2003-0024**

Date approved: **9/13/2003**
month/day/year

Name of applicant on most recent special use permit **Essam Danfora**

Use **Automobile Service Station**

2. Describe below the nature of the **existing** operation in detail so that the Department of Planning and Zoning can understand the nature of the change in operation; include information regarding type of operation, number of patrons served, number of employees, parking availability, etc. (Attach additional sheets if necessary)

An automobile service station has been operating on this property since 1968 (SUP #737).

The current station operates that trades under the name Duke Street Mobil is a full service station with three (3) garage bays used for light automobile repair, four (4) fueling islands each with two (2) multi-product dispensers and a small convenience retail area in the customer/cashier/office of the building.

3. Describe any **proposed** changes to the business from what was represented to the Planning Commission and City Council during the special use permit approval process, including any proposed changes in the nature of the activity, the number and type of patrons, the number of employees, the hours, how parking is to be provided for employees and patrons, any noise emitted by the use, etc. (Attach additional sheets if necessary)

4. Is the use currently open for business? X Yes No

If the use is closed, provide the date closed. / /
month day year

5. Describe any proposed changes to the conditions of the special use permit:

6. Are the hours of operation proposed to change? ☐ Yes ☒ No
If yes, list the current hours and proposed hours:

Current Hours:

6:00 am-10:00pm, seven (7) days a week

Proposed Hours:

No change

7. Will the number of employees remain the same? ☒ Yes ☐ No
If no, list the current number of employees and the proposed number.

Current Number of Employees:

Six (6) Full and part time employees

Proposed Number of Employees:

Six (6) full and part time employees

8. Will there be any renovations or new equipment for the business? ☐ Yes ☒ No
If yes, describe the type of renovations and/or list any new equipment proposed.

9. Are you proposing any change in the sales or service of alcoholic beverages? ☐ Yes ☒ No
If yes, describe proposed changes:

10. Is off-street parking provided for your employees? ☒ Yes ☐ No
If yes, how many spaces, and where are they located?

Fifteen (15) parking spaces are located on the surface parking facility surrounding the service station building.

11. Is off-street parking provided for your customers? X Yes No
If yes, how many spaces, and where are they located?

Fifteen (15) parking spaces are located on the surface parking facility surrounding the service station building.

12. Is there a proposed increase in the number of seats or patrons served? Yes X No
If yes, describe the current number of seats or patrons served and the proposed number of seats and patrons served. For restaurants, list the number of seats by type (i.e. bar stools, seats at tables, etc.)

Current:

Proposed:

13. Are physical changes to the structure or interior space requested? Yes X No
If yes, attach drawings showing existing and proposed layouts. In both cases, include the floor area devoted to uses, i.e. storage area, customer service area, and/or office spaces.

14. Is there a proposed increase in the building area devoted to the business? Yes X No
If yes, describe the existing amount of building area and the proposed amount of building area.

Current:

Proposed:

15. The applicant is the (check one) X Property owner Lessee

 other, please describe: _____

16. The applicant is the (check one) X Current business owner Prospective business owner

 other, please describe: _____

2004-034

17. Each application shall contain a clear and concise statement identifying the applicant, including the name and address of each person owning an interest in the applicant and the extent of such ownership interest. If the applicant, or one of such persons holding an ownership interest in the applicant is a corporation, each person owning an interest in excess of ten percent (10%) in the corporation and the extent of interest shall be identified by name and address. For the purpose of this section, the term "ownership interest" shall include any legal or equitable interest held in the subject real estate at the time of the application. If a nonprofit corporation, the name of the registered agent must be provided.

Please provide ownership information here:

R & N Corporation is a Virginia corporation trading as Duke Street Mobil. The individuals owning in excess of a ten (10%) interest in the Corporation are: Ray Mahmood and Dave Mahmood.

R&N-SUP-amendment.app

LAND, CLARK, CARROLL, MENDELSON & BLAIR, P.C.
Attorneys & Counsellors at Law
524 KING STREET
ALEXANDRIA, VA 22314

15822
6-12-04

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MAILING ADDRESS:
P.O. BOX 19888
ALEXANDRIA, VIRGINIA 22320-0888

June 10, 2004

The Honorable William D. Euille, Mayor
City of Alexandria
301 King Street
City Hall, Room 2300
Alexandria, VA 22314

TRANSMITTED BY E-MAIL

**In Re: Alexandria City Council Public Hearing Saturday, June 12, 2004
Docket Items #15 and #22**

Dear Mayor Euille:

On Saturday, June 12, 2004, the Alexandria City Council will convene its June public hearing and will thereafter consider and take action on the two above-referenced Special Use Permit Applications. Simultaneously on June 12, 2004 at 9:30 A.M., the commencement ceremony for graduating seniors of St. Stephen's & St. Agnes High School will commence on the lawns of the Virginia Theological Seminary. Among the graduates is my youngest daughter, Caitlin Carter Blair.

Among the special use permit applications you will consider are requests by my clients, R & N Corporation, Ray Mahmood and David Mahmood, for a change of ownership of the Duke Street Mobil Station, and the Virginia Theological Seminary for a development special use permit to construct new faculty residences on the western portion of the Seminary campus. Both projects were recommended for approval by the City of Alexandria departments and were unanimously approved by the Alexandria Planning Commission at its June 1, 2004 Public Hearing. Obviously, I am unable to be at both places at the same time and will attend my daughter's graduation. My law partner, Drew Carroll, has agreed to attend the City Council Public Hearing to represent our clients in connection with these matters. However, in the event either item should be controversial or there be issues of concern, I will request that Mayor Euille move the items to the end of the docket, which would be after the two major Site Plan Appeal Public Hearing items, in order to allow me to attend the graduation of my daughter and also attend the public hearing to represent my clients.

I would appreciate the opportunity to discuss this matter with you prior to the public hearing to determine whether or not there are any questions or concerns you may have regarding the applications. Briefly, the applications are:

(1) Docket Item #15 - Special Use Permit #2004-0034. Ray and David Mahmood have acquired the Duke Street Mobil Station and are requesting a change of ownership of the existing special use permit to continue to operate the service station. The prior owner and operator of the station was before you on a number of occasions on annual reviews to insure compliance of the special use permit conditions. The Mahmoods accept the conditions of approval, including the one year review, and are confident that the operating history of the Duke Street Mobil Station will be rewritten and will reflect a fully compliant owner/operator. Just today, Mr. Ray Mahmood received a telephone call from the Alexandria Beautification Commission advising him that they will be receiving a Beautification Award for the Duke Street Mobil Station;

(2) Docket Item #22 – Development Special Use Permit #2003-0030. The Virginia Theological Seminary is requesting the approval to construct two new faculty housing buildings to contain four new faculty housing units. The Seminary has worked extensively with the Department of Planning & Zoning, the Department of Transportation & Environmental Services, and the Department of Parks & Recreation to plan and site the proposed units in a manner that is responsive and respectful of the existing wooded condition.

The proposed faculty housing buildings will be constructed in two phases and is anticipated will meet the future housing needs of the Seminary for the next ten years. As referenced earlier, the proposal was recommended for approval by the City of Alexandria's departments, approved unanimously by the Planning Commission, and with the support of the Seminary Hill Association.

If you have any questions or concerns, I would appreciate your letting me know so that I can contact you and address the issues.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Duncan W. Blair', with a stylized, cursive script.

Duncan W. Blair

APPLICATION for SPECIAL USE PERMIT # 2004-0034 #15

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TAX MAP REFERENCE: 62.03 04 02

ZONE: CG/Commercial General

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Land, Clark, Carroll, Mendelson & Blair, PC
Duncan Wardman Blair, Esquire



Print Name of Applicant or Agent

Signature

PO Box 19888
Mailing/Street Address

(703) 836-1000
Telephone #

(703) 549-3335
Fax #

dblair@landclark.com
Email

Alexandria, Virginia
City and State

22320
Zip Code

March 11, 2004
Date

===== DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY =====

Application Received: _____
Legal Advertisement: _____

Date & Fee Paid: _____ \$ _____

ADMINISTRATIVE ACTION: 06/01/04 RECOMMEND APPROVAL 7-0

City Council Action: 06/12/04 Approved 6-0

Date

Director, Planning & Zoning